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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Policies and Rules Concerning)
Billed Party Preference)
for 0+ InterLATA calls)
_____)

CC Docket No. 92-77

COMMENTS
OF THE
ARIZONA DEPARTMENT OF CORRECTIONS

Dated: July 29, 1994

ARIZONA DEPARTMENT OF CORRECTIONS
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**COMMENTS OF THE
ARIZONA DEPARTMENT OF CORRECTIONS**

COMES NOW, the Arizona Department of Corrections ("ADC"), by its Assistant Director, and respectfully submits these comments in response to the Notice of Proposed Rule Making ("NPRM") issued by the Federal Communications Commission ("FCC") in the above captioned rule making matter.

1. ADC is a statutory agency of the State of Arizona Government, existing pursuant to Arizona Revised Statutes ("A.R.S.") §41-1601, et. seq., having charge of the state correctional institutions (i.e., Prisons), and presently having custody of approximately nineteen thousand (19,000) incarcerated felons.

2. ADC has an interest in this rule making procedure because of its potential impact upon the inmate pay telephones operated at the various ADC prisons. ADC is not an aggregator or pay telephone vendor. ADC has entered into contracts with pay telephone vendors or aggregators to supply pay telephones for inmate use. At present, ADC's inmate telephone providers supply approximately

seven hundred - twenty (720) inmate telephones on the prison yards for use by inmates. These telephones are restricted to placing of sent-collect (0+) telephone calls only. Inmates cannot originate sent-paid telephone calls, nor can inmates receive telephone calls. The instant rule making would have an affect on all inmate telephone calls.

3. ADC, for obvious reasons, has a legitimate concern for maintaining the safety and security of its institutions, the staff, the inmates, and the public-at-large. Notwithstanding the most prudent of precautions, some inmates continue to attempt and perpetuate criminal activity from within the secure perimeter walls of the correctional institutions. One of the most prevalent criminal activities being attempted by inmates within ADC institutions is telephone billing fraud. Based upon data supplied to ADC by our telephone providers, over ten percent (10%) of telephone calls placed by inmates from within ADC prison facilities are billed to either non-existent, or unauthorized telephone numbers. Additionally, ADC investigators routinely observe situations where inmates attempt to have the individual they are talking with on the telephone bring illegal drugs into the prison during forthcoming visitation. Similar criminal activities such as payment for protection occur regularly over the inmate telephone system. There have even been situations where inmates have requested that individuals outside the confines of the prison be murdered. One such attempt was foiled by alert correctional staff who notified authorities prior to the murder attempt, allowing

police to arrest the person who talked with the inmate after he showed up at the intended victims home with a shotgun. The fact that the inmates in the Arizona Department of Corrections are convicted felons is obvious. The fact that inmates continue to attempt to commit criminal acts, even though they are in prison, should not be a surprise to even the most gullible citizen.

4. In addition to the criminal activity described above, inmates also have used inmate telephones to harass sentencing judges, prosecuting attorneys, crime victims, and others.

5. In the FCC's CC Docket No. 91-35 ("Equal Access Proceedings"), In the Matter of Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, ADC detailed similar inmate telephone fraud concerns. In that proceeding, the FCC determined that pay telephones located inside correctional institutions should be exempt from the "equal access" requirements contemplated in that rule making. The Arizona Department of Corrections also originally filed comments in relation to Docket 92-77 on July 6, 1992. Our belief then, as it is today, is one that "billed party preference" ("BPP") is not in the best interest of correctional agencies, the citizens of the United States, or even the inmate population.

6. ADC believes that the BPP scheme, as proposed in the instant rule making, poses a security threat to correctional institutions, and will allow inmates to have further avenues available for perpetuating or concealing fraud-by-telephone activities as well as the myriad of other criminal activities

mentioned in point number three above. As an example of this, at present when ADC conducts a criminal investigation into a telephone billing fraud perpetrated by or in conjunction with an ADC inmate, ADC has only one inter-exchange carrier ("IXC") with which to communicate (e.g., the IXC selected by ADC's inmate telephone provider). Not only does the IXC cooperate fully with ongoing ADC investigations, the IXC works closely with ADC officials to block suspected fraudulent telephone numbers, and in detecting patterns of suspected fraudulent telephone billing activity or other felonious acts. The selected IXC works closely with ADC to provide the specialized and sophisticated call blocking and call screening needed for correctional institutions. Indeed, because there is a single relationship between ADC's telephone provider and the selected IXC, the inmate telephone provider has been able to ensure that the IXC will cooperate and assist ADC's law enforcement and criminal justice duties whenever necessary and consistent with prevailing rules and laws.

7. In the event that the FCC were to implement the proposed BPP strategy, the receiving telephone number would be dictating the IXC to be utilized. Under the proposed BPP scheme, it is reasonable to conclude that there will be potentially hundreds of IXCs involved, and that inmates could further perpetuate crime-by-telephone activities by arranging for multiple outside contacts each with different IXCs in order to maximize the concealment of their illegal endeavors.

8. During 1989, the North Carolina Utilities Commission

ordered an industry conference, which was chaired by Southern Bell, to discuss telephone service being provided to correctional institutions. One key point agreed to at this conference was that some Local Exchange Carriers (LEC) and some IXCs are unable to provide the specialized call blocking and screening needed for inmate facilities. This problem continues today and would allow for fraud to be committed by inmates.

9. With multiple IXCs involved, ADC criminal investigators would be effectively thwarted in their efforts to detect, investigate, and curtail inmate crime-by-telephone activities. For example, simply determining the IXC over which a sent-collect inmate telephone call was routed would potentially become an insurmountable task. Various privacy laws prevent ADC from obtaining information concerning the called party's telephone service or telephone billing. Whereas, the situation presently exists, the IXC serving ADC's inmate telephones can readily provide information about calls placed from ADC's inmate telephones without violating the privacy of a remote party's telephone billing. Implementing BPP as proposed, would effectively prevent ADC from obtaining any information from any of the LECs or IXCs without a court order, and then such an order would have to be obtained on a call-by-call basis. The additional man-hours required and delays in processing paperwork would obstruct law enforcement efforts and increase costs associated with legitimate criminal investigations.

10. In addition to the law enforcement concerns referenced, there are further expected impacts of BPP which will prove to be a

hardship to inmates incarcerated within the ADC and abiding by the rules and laws of the state in attempting to complete their sentences and return to society. Without the authority to process calls and receive the call revenue, inmate telephone service providers will not be able to purchase and maintain the sophisticated telephone systems used in prisons. Whereas correctional systems such as ADC are not budgeted to provide for the deployment of inmate telephone systems, the result will be a major reduction in telephone access to inmates and a resultant reduction in an inmate's ability to make telephone contact with family in the community. In this case, BPP will have an undesirable result of either reducing contact between inmates who abide by rules, with their families, or increasing the cost to taxpayers, as correctional agencies absorb the cost of providing telephone access to inmates.

11. It also appears that BPP will cause an increase in cost to telephone consumers. Under even the most ideal scenario, BPP would entail that a long distance call would first be "preliminarily" routed (via SS7 common channel signalling) to the receiving-end local telephone company to determine the receiving-end-user-selected IXC. The call would then be processed over the selected IXC's network. An expected result of BPP will be that IXCs will increase their charges to compensate for the "preliminary" set-up traffic which would route over their networks. The end result is that call set-up times will increase, especially in the case of operator-assisted calls.

12. In summary, ADC believes that "billed party preference," at least with regard to sent-collect telephone calls, and particularly within the context of correctional or detention environments, should not be implemented. We have held this belief for some time and are committed that no one benefits from it, except for a few telephone companies. Implementation of BPP risks irreversible harm to prison operations. There are other means of addressing fair and quality services for inmates and their families which have yet to be explored. A rule which will increase the likelihood of successful criminal activity, hamper investigation of criminal acts, potentially decrease legitimate telephone access for inmates and possibly increase costs to consumers, appears unreasonable.

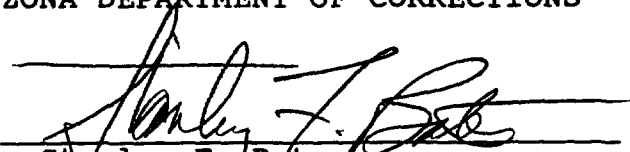
WHEREFORE, THE PREMISES CONSIDERED, the Arizona Department of Corrections respectfully requests the Federal Communications Commission to give careful and faithful consideration to the comments contained herein and to enact rules and regulations in accordance therewith.

Respectfully Submitted,

ARIZONA DEPARTMENT OF CORRECTIONS

Dated: July 29, 1994

By:


Stanley F. Bates
Assistant Director